

PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of

Docket No: A7995

Jens-Peter REDLICH, et al.

Appln. No.: 10/057,914

Group Art Unit: 2141

Confirmation No.: 3714

Examiner: Chirag R. PATEL

Filed: January 29, 2002

For: MULTI-ISP CONTROLLED PUBLIC INTERNET ACCESS, BASED ON THIRD-PARTY OPERATED PUBLIC ACCESS STATIONS

REPLY BRIEF PURSUANT TO 37 C.F.R. § 41.41

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the provisions of 37 C.F.R. § 41.41, Appellant respectfully submits this Reply Brief in response to the Examiner's Answer dated October 1, 2008. Entry of this Reply Brief is respectfully requested.

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STATUS OF CLAIMS

Each of the pending claims 1-34, 36-41 are rejected (see Final Office Action dated November 22, 2006) and are presently under appeal. Specifically, following are the pending rejections which are under appeal.

1. Rejection of claims 1-22, 24-25, 28-32, 36-37 and 39-40 under 35 U.S.C.103(a) as being unpatentable over Slemmer (U.S. 6,226,677) in view of Giniger et al – hereinafter Giniger (U.S. 6,751,729).

2. Rejection of claims 23, 26-27, 34 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slemmer (US 6,226,677) / Giniger (U.S. Patent No. 6,751,729) further in view of Jansen et al. – hereinafter Jansen (U.S. 6,243,450).

3. Rejection of claims 33 and 41 under 35 U.S.C. § 103(a) as being unpatentable over Slemmer (U.S. 6,226,677) / Giniger (U.S. 6,751,729) further in view of Bahl (U.S. 6,957,276).

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

1. Rejection of claims 1-22, 24-25, 28-32, 36-37 and 39-40 under 35 U.S.C.103(a) as being unpatentable over Slemmer (U.S. 6,226,677) in view of Giniger et al – hereinafter Giniger (U.S. 6,751,729).

2. Rejection of claims 23, 26-27, 34 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slemmer (U.S. 6,226,677) / Giniger (U.S. Patent No. 6,751,729) further in view of Jansen et al. – hereinafter Jansen (U.S. 6,243,450).

3. Rejection of claims 33 and 41 under 35 U.S.C. § 103(a) as being unpatentable over Slemmer (U.S. 6,226,677) / Giniger (U.S. 6,751,729) further in view of Bahl (U.S. 6,957,276).

All of the above rejections are under appeal.

ARGUMENT

The Appellants respectfully submit that a substantial portion of the Examiner's Answer is a mere repetition of the grounds raised in the various Office Actions. The Examiner has responded to the Appellants arguments only in item 10 starting page 19 of the Examiner's Answer. Herein the Appellants provide counter-arguments to the new grounds raised by the Examiner in item 10 of the Examiner's answer.

In the Examiner's Answer, the Examiner contends that the untrusted access station is equivalent to item 130 shown in Fig. 1 of Slemmer. The Appellants respectfully submit that the limitations related to the access station can not be viewed in isolation from the rest of the invention. Notably, the goal of the present invention is to establish a secure tunnel from a user terminal to trusted network element **through an untrusted access station**. For example, the present invention is aimed at a user using his personal laptop for accesses the Internet through an untrusted access station at a Starbucks restaurant. Such a user is faced with the possibility of eavesdropping by the untrusted access station at Starbucks.

The Examiner continues to maintain that the limitations related to generating the session keys and distributing it to the terminal and the trusted network element and establishing a secure tunnel between the terminal and the trusted network element. As per the Examiner's characterization of Giniger, the edge device has the capability of generating a public/private key pair as well as the configuration of an encrypted communication tunnel with other edge devices.

However, there is nothing to indicate that the edge devices themselves are untrusted or that the communication between the edge devices is through an untrusted access station. The

present invention relates to a combination of features that make the secure communication possible. It requires accessing the trusted network element through an untrusted access station and then generating and distributing the session key to the user terminal and the trusted network element so that a secure network tunnel is established between the trusted network and the user terminal. Since the user terminal is connected to the trusted network element through the untrusted access station, it is clear that the secure tunnel passes through the untrusted access station accentuating the importance of the limitation that the trusted network element is secure from modification or eaves dropping by the untrusted access station. For example, the access station at Starbuck should not modify or eavesdrop in any communication initiated by the user.

Even if the teachings of Giniger is give its broadest interpretation, a secure tunnel is established between two edge nodes. However, there is nothing to suggest a secure tunnel being established between the edge nodes through an untrusted access station. Likewise, in a broadest interpretation of the teachings of Slemmer, a connection is established between a user terminal and the Internet through an access station. It should be noted that there is no disclosure to suggestion in Slemmer that the access station is untrusted.

Therefore, even with the broadest interpretation of the combined teachings of Slemmer and Giniger, there is no suggestion for establishing a secure tunnel between a user terminal and a trusted network element which passes through an untrusted access station.

The Examiner has not established obviousness of the present invention (as recited in claim 1) by the combined teachings of Slemmer and Giniger at least because Giniger does not disclose establishing a secure tunnel between a user terminal and a trusted network element via

an untrusted access station. Therefore, the finding of obviousness of claim 1 by Slemmer and Giniger must be reversed. Since the “all elements” prong of the three prong test for obviousness fails, the motivation prong must also fail.

Claims 4, 5, 6 and 36 include features that are discussed above that are analogous to claim 1 (specifically the limitations related to “untrusted” access station). Therefore, the rejection of these claims based on the combined teachings of Slemmer and Giniger must also be reversed.

Claims 2, 3, 7-22, 24-25, 28-32, 37 and 39-41 are dependant on claims 1, 6 and 36 respectively. Therefore, they are patentable for the same reasons.

CONCLUSION

For the above reasons as well as the reasons set forth in Appeal Brief, Appellant respectfully requests that the Board reverse the Examiner's rejections of all claims on Appeal. An early and favorable decision on the merits of this Appeal is respectfully requested.

Respectfully submitted,

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